

**THE ELIZABETH A. KEY
IRREVOCABLE TRUST
OF 2009**

* CALL

Prepared by:
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**Agreement Establishing A Trust Without Requirement of
Qualification of Trustee, Surety or Public Accounting**

to be known as

**The Elizabeth A. Key Irrevocable Trust
of 2009**

**A TRUST SOLELY FOR BENEFIT OF A PERSON
UNDER THE AGE OF 65 WHO IS DISABLED
AS DEFINED IN SECTION 1614(A)(3)
OF THE SOCIAL SECURITY ACT.**

THIS TRUST ACKNOWLEDGMENT AND AGREEMENT (the Agreement) is to declare, acknowledge and establish a Trust for the sole benefit of Elizabeth A. Key sometimes referred to herein as Beneficiary, a permanently disabled person who has not yet attained the age of sixty-five years.

The person establishing the Trust is James H. Key who is the father of Elizabeth A. Key and who is sometimes referred to herein as Settlor.

The Trust is established, and any property which may be transferred to the Trust is transferred pursuant to the authority of, 42 U.S.C. 1396p, 42 U.S.C. 1382b as amended by § 205 of the Foster Care Independence Act of 1999 (P. L. 106-169), SSA POMS SI 01120.203 and Social Security Administration technical memorandum EM-00067, dated May 26, 2000, captioned "Supplemental Security Income - Processing Medicaid Trust Exceptions to the New SSI Trust Provision," and state law, including the Virginia Plan for Medicaid Assistance, particularly section VR 460-03-2.6109, entitled "State Plan for Medical Assistance Relating to Transfer of Assets and Treatment of Certain Assets," effective January 27, 1994, and published at Vol. 10, Issue 7, Va. Register of Regulations, dated December 27, 1993, codified in 12 VAC 30-40-300, as interpreted by the Virginia Department of Social Services and the Virginia Department of Medical Assistance Services in the Virginia Medicaid Manual, Sections M1120.202 and M1450.400 (C).

This Trust Agreement appoints James H. Key of Southaven, Mississippi, as the initial Trustee of this Trust. The duties and obligations imposed upon the Trustee, and the authority of the Trustee, and of any successor Trustee(s), are set forth below.

The Trust is absolutely irrevocable. Neither James H. Key, in his capacity as Settlor, nor Elizabeth A. Key, in any capacity, has the power, right or authority to revoke the Trust or direct use of the Trust Estate for any purpose.

The Trust provides for recovery of medical assistance payments at the death of Elizabeth A. Key, and provides for distribution of the residue of the Trust Estate at her death first, to the Settlor of the sum of \$20.00, being the initial contribution to this Trust; and, finally, thereafter, to ascertainable residual beneficiaries.

The Trust is a purely and absolutely discretionary trust. The Trust is a spendthrift trust, and is intended to restrain both voluntary and involuntary transfers of the interest of Elizabeth A. Key in the Trust and its avails. Elizabeth A. Key as a wholly disabled individual, has a medically determined physical or mental disability that substantially impairs her ability to provide for her care or custody, and constitutes a substantial handicap to her.

WITNESSETH:

ARTICLE I:

Basis Of The Trust.

1. **Sole Beneficiary of Trust.** Elizabeth A. Key is the sole beneficiary of this Trust.
2. **Beneficiary Disabled And Under 65 Years Of Age.** Elizabeth A. Key is disabled as defined in Section 1614(a)(3) of the Social Security Act. Elizabeth A. Key, as of the date of the establishment of this Trust, has not attained the age of sixty-five years.
3. **Settlor, Beneficiary, And Other Contributors To Trust Not Disqualified From Public Entitlements.** In establishing the Trust, it is the intention James H. Key in accordance with 42 U.S.C. 1396p and the Virginia State Plan for Medical Assistance, as amended, that:
 - a) Establishment of this Trust by her, and the present or any future transfer of assets to the Trustee of this Trust by her or any other person, shall not disqualify James H. Key or any other person from, nor render James H. Key any other person ineligible to receive, Medicaid or any other public entitlement benefits, including Social Security Supplemental Security Income;
 - b) Transfer of assets to the Trustee of this Trust by any person, including Elizabeth A. Key, shall not disqualify such person from, or render any such person ineligible to receive, Medicaid or other public entitlement benefits, including Social Security Supplemental Security Income;
 - c) The establishment or existence of this Trust, and the transfer to and receipt of assets by the Trustee of this Trust, shall not disqualify Elizabeth A. Key or

any other person from, or render Elizabeth A. Key or any other person ineligible to receive, Medicaid or other public entitlement benefits, including Social Security Supplemental Security Income; and

- d) Neither the corpus nor the income of the Trust Estate shall be deemed available to any person in determining eligibility for Medicaid or any other public entitlement benefits, including Social Security Supplemental Security Income.

4. **Lifetime Needs And Care Of Elizabeth A. Key.** The estate and assets of Elizabeth A. Key will be insufficient to provide for the full extent of lifetime care she will require. Settlor intends that the Trust provide a system of fiscal management, investment, and disbursement of property and its income for the sole benefit of Elizabeth A. Key. Settlor intends that the Trust Estate be maintained, conserved and increased insofar as is possible to provide a source of supplemental resources and income, in the sole and absolute discretion of the Trustee, for advocacy and legal representation, social and educational development services, habilitation, care, luxuries, comforts, management and guidance for Elizabeth A. Key during her entire lifetime.
5. **Trust Estate Supplemental Only; Not A Support Trust.** James H. Key intends that the Trust Estate supplement all the services, benefits and entitlements to which Elizabeth A. Key might be eligible, as a result of disability or otherwise, presently or in the future. Such services, benefits and entitlements include but are not limited to public benefits and entitlements from federal, state, county or local government agencies, as well as public or private corporations and agencies. The Trust shall not be considered a trust for the support of Elizabeth A. Key, presently or in the future. No portion of the Trust Estate is an available resource or item of income to her, or subject to her direction or control to pay for her obligations, general support or medical needs and services. Except as hereafter provided in the sole and absolute discretion of the Trustee, the Trust Estate shall

not be available for or expended to eliminate, replace, supplant, impair, or reduce any public assistance, benefits or entitlements to which Elizabeth A. Key is or may become entitled in the future, including but not limited to benefits and coverage of, from, or pursuant to the Medicaid program of any jurisdiction, or the United States Social Security Administration. No payment made to Elizabeth A. Key or for her benefit, pursuant to the terms of this instrument shall constitute the discharge of any legal obligation of support of the Trustee or Settlor or any other person.

6. **Limited Amendment By Court Permitted On Petition Of Trustee.** Beneficiary resides in Southaven, Mississippi. Settlor intends to confirm the present authority of the court of record having jurisdiction over the administration of trusts of that jurisdiction, and of any jurisdiction in which Elizabeth A. Key may hereafter reside, to amend the Trust under limited conditions for her benefit, as provided below.

7. **Present Trust Established By Settlor; Trustee May Receive Contributed Assets From Any Source.** Settlor, in accordance with 42 U.S.C. 1396p, and the Virginia State Plan for Medical Assistance, simultaneously with the execution of this instrument, does hereby set over, transfer, and entrust to the Trustee the sum of \$50.00 (fifty United States Dollars) upon the terms and provisions hereinafter set forth. Settlor intends and anticipates that at any time, and from time to time, Trustee may receive further and other assets, of any description whatsoever, from Settlor or other sources. Without limitation, it is Settlor's intention that assets of Elizabeth A. Key may be received by Trustee under this instrument. The assets initially funding this Trust and all income and other additions thereto are referred to as the "Trust Estate."

8. **Name Of Trust.** Trustee, and any successor Trustee(s) who or which may be appointed or serve under this instrument, shall hold and maintain the Trust Estate in a trust to be known as "**The Elizabeth A. Key Irrevocable Trust of 2009,**" pursuant to the terms and conditions expressed in this instrument.

ARTICLE II:

Creation, Amendment, And Operation Of Trust During Life Of Elizabeth A. Key

9. **Settlor Is Sole Creator Of The Trust.** No person or entity other than the Settlor establishing this Trust in accordance with the said statutes shall be deemed to be the creator or settlor of this Trust for purposes of Medicaid or Supplemental Security Income.
10. **Amendment Of The Trust.** Notwithstanding the irrevocability of the Trust and the discretion vested in the Trustee under the terms of this Agreement, the Trust may be amended from time to time or terminated by the circuit court or other court of record, having authority under local law to appoint, supervise, remove, or discipline testamentary trustees, in the jurisdiction in which Elizabeth A. Key may reside at the time of such proposed amendment, as her circumstances may then require. Settlor contemplates that an amendment would be sought only if the law materially changes to such a degree that the Trust property cannot be excluded from consideration in determining public or medical assistance to which Elizabeth A. Key is eligible; or if the law requires an amendment to exclude the Trust Estate from consideration as an asset, resource or income source of Elizabeth A. Key, or to permit contributions of property to this Trust free of any disqualification period for Medicaid, or to exempt the Trust Estate from attachment, garnishment, estate recovery, lien, or inclusion as an "available" resource or

asset of Elizabeth A. Key or any third party by any public instrumentality or other creditor of Beneficiary, or of any person contributing property to the Trust, including without limitation Settlor or Beneficiary. In amplification of this paragraph, Settlor intends that no amendment(s) shall:

- a) create a period of ineligibility for Medicaid by reason of the assets transferred into the Trust; or
- b) cause the income or corpus of the Trust to be deemed available to, or "countable" resources or income of, Beneficiary; or
- c) disqualify transfers to the Trust from the exceptions for transfers to trusts established for the sole benefit of disabled persons under the age of sixty-five years, as provided for in 42 U.S.C. 1396p; or
- d) disqualify the Trust for exemption as a trust established for the sole benefit of a disabled person under the age of sixty-five years, as set forth in 42 U.S.C. 1396p.

11. **Standing To Petition For Amendment.** No governmental agency, division, authority, or any agent, servant, or employee of any such governmental entity, shall have the right to petition for amendment of this Trust if such amendment shall create a period of ineligibility for Medicaid by reason of the assets transferred into the Trust; cause the income or corpus of the Trust to be deemed available to, or "countable" resources or income of, Elizabeth A. Key; disqualify transfers to the Trust from the exceptions for transfers to trusts established for the sole benefit of disabled persons under the age of sixty-five years, as provided for in 42 U.S.C. 1396p, or any similar legislation; or disqualify the Trust for exemption as a trust established for the sole benefit of a disabled person under the age of sixty-five years, as set forth in 42 U.S.C. 1396p.

12. **Trust During The Lifetime Of Beneficiary; Absolute Discretion Of Trustee.** During the lifetime of Elizabeth A. Key, both the corpus of and the income from the Trust Estate may be paid to or expended for her sole benefit, in the absolute discretion of the Trustee.

In exercising in favor of Beneficiary the absolute discretion herein conferred upon the Trustee, Trustee may and it is hoped will first inquire into the availability of any other public or private funds to pay any expenditure that Trustee may contemplate from the Trust. Settlor intends that Beneficiary receive the fullest benefits available under any public or private programs providing income or benefits to which Beneficiary might be entitled, including any payment which, but for the distribution of income or corpus from the Trust, Beneficiary would be entitled to in the nature of support from any person otherwise required by law to support Beneficiary. Absolutely no part of the principal or income of the Trust Estate shall be considered available to Beneficiary.

13. **Guidance To Trustee In The Matter Of Distributions.** Without limiting the absolute discretion conferred upon the Trustee, Settlor intends that the Trustee be authorized to pay or apply so much of the net income of the Trust Estate for the benefit of Elizabeth A. Key as Trustee shall deem appropriate so as to result in the highest quality of life possible for Elizabeth A. Key. If the net income of the Trust shall be insufficient for this purpose, Trustee may pay or apply so much of the principal of the Trust Estate, unto its complete exhaustion, in pursuit of the highest quality of life possible for Beneficiary. However, no expenditures shall be made for any property, service or expense that could, in the absence of such expenditure, be provided by governmental or private programs, benefits or insurance, including without limitation Medicaid and Social Security Supplemental Security Income benefits which are known to the Trustee, unless Trustee in the exercise of Trustee's sole and absolute discretion shall determine that the adverse effect resulting from any such expenditure or distribution, from the Trust such as the loss of eligibility for particular program benefits, is outweighed by the benefit of the expenditure or

distribution to Elizabeth A. Key. The Trust Estate should ordinarily not be used to provide basic food, clothing and shelter, nor be available to Elizabeth A. Key for conversion for such items, unless all local, state and federal benefits to which she is eligible have been received and applied for those purposes. Subject to the foregoing considerations, Trustee in Trustee's absolute and sole discretion, may make disbursements from the Trust Estate for the following expenses, among others:

- a) **Housing.** Expenses necessary to maintain Elizabeth A. Key in a comfortable, appropriate and pleasing residence. This may include any private home in which she may from time to time reside, or it may include a congregate care facility. Trustee may pay the associated or incidental costs relating to the happiness and well being of Elizabeth A. Key in any such residence or facility. It is the intention of the Settlor that Elizabeth A. Key be maintained, with her family if possible and desirable, in a suitable private home for as long as it is prudent, in the discretion of the Trustee, that she be so maintained.

Without limiting the authority conferred upon Trustee under this subsection a):

- i) Trustee is authorized, in Trustee's sole discretion, to expend Trust income and corpus for the purchase or construction of a residence for Elizabeth A. Key or to modify any extant residence in which she may from time to time reside, or to lease, rent, license or otherwise obtain for her a suitable residence for her comfort and special needs.
- ii) The Trustee may expend Trust income and corpus for modifications including but not be limited to the installation and maintenance of athletic facilities (including if appropriate, a swimming pool and other recreational facilities), and modifications to the structure of the home, for the therapeutic and psychological benefit of, and for the special needs and use of, Elizabeth A. Key.
- iii) Trustee may acquire a life estate in a suitable home for the use and enjoyment of Elizabeth A. Key provided that such life estate shall be calculated in accordance with the then applicable commutation tables and Medicaid policy in effect in the Virginia Code and the Virginia Medicaid Manual, or the then applicable law, tables and policy of the state in which Elizabeth A. Key may reside at the time of the acquisition of such life estate.

- b) **Personal Property, Including Motor Vehicle and Insurance.** Expenses incident to the provision of personal property to Elizabeth A. Key or the use of such property for her. If at any time she is or may be eligible to receive Social Security Supplemental Security Income benefits, during such eligibility period, it is intended but not required that such personal property shall generally be other than food, shelter, or clothing so as to maximize her eligibility for such public benefits. Such personal property includes but is not limited to business property, and may include life, health, casualty, disability, long term care, accident, automobile, water craft, or other insurance of any nature whatsoever. Without limitation, Trustee may acquire, own, retain, exchange, sell, insure, maintain, fuel and make available on any terms deemed advantageous to Elizabeth A. Key any property whatsoever, including motor or water vehicles for her personal use, or Trustee may acquire and transfer ownership of such property to her .
- c) **Travel and Recreation.** Reasonable expenses including travel and related expenses incurred in providing for Elizabeth A. Key to participate in any activity, including vacations, trips to theater, outings with her family and friends.
- d) **Medical Services Not Otherwise Reimbursed.** The payment for medical care and services, including medical services which may be not considered medically necessary, to the extent the same are not paid by Medicare, Medicaid, private insurance, or any other entitlement for which Elizabeth A. Key qualifies. Such services include but are not limited to elective and cosmetic surgery, glasses, contact lenses; dental services including, but not limited to, teeth cleaning, teeth sealing to prevent cavities, treatment (including preventive treatment for periodontal and related gum disease, braces, and crowns); supplemental occupational therapy, supplemental psychiatric or physical therapy; supplemental speech therapy; and any experimental or alternative medical, social, spiritual or psychiatric services, therapies, and treatments which Trustee believes will enhance her dignity, self-image and her sense of well being.
- e) **Non-medical Aid and Assistance.** Payment for attendant care and services by non-medical providers for Elizabeth A. Key within her place of residence or elsewhere. Such care and services may include the provision of custodial assistance and monitoring of Elizabeth A. Key in any residence in which she may at any time live. Trustee may engage any person, including any Trustee or any friend of the family, or any family member, of Elizabeth A. Key to provide such services on reasonable terms and rates and without court order or supervision. Such assistance may include for example and not by way of limitation assistance with the extraordinary personal care needs of Elizabeth A. Key, including special assistance with her toileting, bathing, shaving, grooming, dressing, and related needs; assistance in monitoring her general health, and in administering personal care services for her benefit insofar as such services do not require the provider to be licensed as a health care facility or provider; assistance in monitoring and administering her medications to the extent that such assistance shall not require the provider

to possess a license as a health care facility or as health care provider; preparation and service of meals to Elizabeth A. Key, in her residence or otherwise (subject to the foregoing general restraints upon the provision of foodstuffs when the provision of the same may impair or reduce eligibility for Social Security Administration entitlements); general housekeeping and cleaning services for the residence occupied by Elizabeth A. Key; laundry services for her; general companionship, supervision, and entertainment for the benefit of Elizabeth A. Key, and transportation, using a motor vehicle furnished by the Trust or by Elizabeth A. Key, to convey her and any necessary or helpful assistants for her care.

14. **Unsecured Loans To Beneficiary In Discretion Of Trustee.** To the extent that it shall not cause Elizabeth A. Key to suffer a reduction in or termination of public entitlements to which she is otherwise entitled, Trustee may in Trustee's sole discretion lend funds from the Trust Estate to Elizabeth A. Key, or to any court appointed fiduciary for her. Such loans shall be for the sole benefit of Elizabeth A. Key. Without limitation of the general indemnification of the Trustee hereafter set forth, such loans may be made without inquiry into the creditworthiness or the likelihood of repayment by Elizabeth A. Key, and Trustee shall never be questioned or held liable for the exercise of discretion to make such loans under this paragraph. Such loans may be without security and shall bear such interest, if any, as Trustee shall deem appropriate. Any loan made on behalf of Elizabeth A. Key by any court or privately appointed fiduciary for her shall be without personal liability on behalf of such court or privately appointed fiduciary. In the exercise of discretion by the Trustee whether to make such loans, the Trustee shall consider whether and to what extent loan proceeds constitute income or resources of Elizabeth A. Key under any regulation of the Social Security or Medicaid law.
15. **Reimbursement Of Expenses Of Trustee And Third Parties.** Trustee may reimburse Trustee or others for any expenses which may be incurred in connection with the provision of comforts, facilities and services to meet the needs of Elizabeth A. Key. Such

expenses may include by way of illustration and not limitation travel and related expenses incurred by any relatives, acquaintances, and friends of Beneficiary for the purpose of visiting her; for expenses incurred by any person or persons in accompanying her to her place of employment, or vacation, overnight trips, seminars, retreats, camps, outings, or to any other activity for which, in the sole discretion of the Trustee, the participation of such persons is a reasonable element in the participation, benefit, or enjoyment of such activity by Elizabeth A. Key. No reimbursement or payment is authorized to the extent it limits or disqualifies the Trust from the exemptions provided in the cited federal and state regulations.

16. **Evaluations By Experts.** Trustee may authorize periodic evaluations by independent and appropriately qualified individuals or organizations of the quality of care Elizabeth A. Key receives, and the appropriateness of other activities engaged in by her, including but not limited to her physical condition; appropriateness of educational training programs; opportunities for employment; participation in recreation, leisure time and social activities; and appropriateness of existing residential environment and program services. The evaluation may be based on any information the evaluator deems pertinent.
17. **Legal Representation.** Trustee, at the expense of the Trust, may take whatever action is necessary to enforce the right of Elizabeth A. Key to programs and services to which she is believed entitled, and to provide for her legal rights to public and private entitlements, education, treatment, privacy, minimum / fair wages, and all other civil rights, including statutory or administrative rights to which she may be entitled under the Americans With Disabilities Act or any similar state or successor federal law.

- 18. Authority To Seek Aid And Guidance; Expenses Incident To Proceedings.** In the event of a lawful determination by a court or agency of competent authority that any portion of the Trust Estate is liable for the maintenance, support, medical and/or dental care of Elizabeth A. Key which would otherwise be provided by any instrumentality or program of the local, state, or federal government or any agency or department thereof, including without limitation Medicaid, or that the existence of the Trust renders her or any person contributing assets to the Trust ineligible to receive any public entitlements or government benefits to which any such person would otherwise be entitled, or if the Trustee shall determine that notwithstanding the spendthrift provision, it is likely or there is a substantial risk that this Trust will be subject to invasion, garnishment or attachment by any creditor, including any public or governmental entity, and in addition if the Trustee in the exercise of sole discretion determines it is not in the best interest of Elizabeth A. Key that the Trust be continued, Trustee may seek the aid and guidance of a court of record having general jurisdiction over matters at law or in equity in the jurisdiction in which Elizabeth A. Key may then reside with respect to the termination, modification, or continuation of this Trust. In determining whether the existence of this Trust has the effect of rendering Elizabeth A. Key ineligible to receive any governmental assistance benefits to which she would otherwise be entitled, Trustee may initiate or defend administrative and/or judicial proceedings to determine eligibility, to defend the Trust Estate (corpus and income) from invasion by any public or private entity, including the commencement or defense of any action at law or equity, and to incur on behalf of the Trust, and to pay from the Trust, all necessary and reasonable costs and expenses related thereto, including attorney's fees. Upon termination of the Trust under this provision, the principal and any accrued and undistributed income of the Trust shall be held,

administered and distributed pursuant to such court's order, it being the intention of the Settlor that any termination of the Trust and subsequent disposition of the Trust Estate shall be for the sole benefit of Elizabeth A. Key.

ARTICLE III:

Disposition Of Trust At Death Of Elizabeth A. Key

19. **Disposition At The Death Of Elizabeth A. Key.** At the death of Elizabeth A. Key, the then serving Trustee shall notify the state or agency of the state (in accordance with the valid regulations enacted by the state) which administers the Medical Assistance (Medicaid) program of the death of Elizabeth A. Key.

20. **Reimbursement To State For Medicaid Payments.** Following the death of Elizabeth A. Key, after payment of reasonable and necessary administrative expenses incident to the winding up of the Trust, Trustee shall distribute to the state or agency of the state (in accordance with the valid regulations enacted by the state) all amounts remaining in the Trust up to an amount equal to the total medical assistance (Medicaid) paid on behalf of Elizabeth A. Key under the state plan for medical assistance (Medicaid). Such distribution shall not exceed the amount of medical assistance (Medicaid) payments which have been made on behalf of Elizabeth A. Key and which have not otherwise been reimbursed as of her death.

21. ***Pro Rata* Distributions Required Among All States Extending Medicaid To Elizabeth A. Key.** To the extent necessary to qualify this Trust as exempt under 42 U.S.C. 1396p(d)(4)(A), the next preceding paragraph shall be interpreted to require that if Elizabeth A. Key resided in more than one State, reimbursement from the Trust shall be

made to each State in which she received Medicaid, based on the States' proportionate share of the total amount of Medicaid benefits paid by all of the States on her behalf. By way of example, if Elizabeth A. Key receives the benefit of Medicaid payments of \$20,000.00 in one state and \$10,000.00 in another state, the first State receives two-thirds of the amount remaining in this Trust at the death of Elizabeth A. Key and the second state receives one third, up to the amount each State actually paid in Medicaid benefits. There shall be no duty on the part of the Trustee to make inquiry concerning any such claims for any state other than the state in which Beneficiary resides as of the date of her death.

22. **Minimum Legal Requirement For Distribution; No Intent To Make Gift Or Create Future Interest In State Beyond Statutory Requirement For Exemption.** It is the intention of the Settlor in establishing this Trust that Trustee reimburse the state (or, in the case of multiple Medicaid payors, the states) the minimum amount necessary to qualify the Trust for the exemption set forth in federal law for such trusts under the Medicaid law. It is not his intention to require or permit the Trustee to disburse any of the Trust estate in excess of such minimum amount. Settlor directs and permits reimbursement as set forth above only to the minimum amount necessary to qualify the Trust for the stated exemptions. To the extent that such reimbursement shall not be required when distribution under this Article III is directed to be made, such reimbursement shall not be made.
23. **Specific Named Residual Takers.** To the extent of undistributed income and principal available, Trustee shall next distribute to Settlor the sum of fifty dollars (\$50.00), the same having been contributed to the Trustee as the initial property funding this Trust; and

any Court approving and directing the establishment or incorporation of this instrument in any Order for the benefit of Beneficiary, intend that the Doctrine of Worthier Title shall not be employed as a rule of construction or otherwise to defeat the absolute intent of the Settlor, and any such Court, that this Trust be absolutely irrevocable, unavailable to her, and beyond her reach, dominion or control.

24. **.Limited Testamentary Power Of Appointment Granted To Elizabeth A. Key.** To the extent of undistributed income and principal available, after making the foregoing distributions, Trustee shall next distribute the residue of the Trust Estate, if any. Elizabeth A. Key may appoint by specific reference to this power in her last will. Elizabeth A. Key may appoint to anyone or anything, except that she may not appoint to herself, her estate, or the creditors of herself or her estate. The exercise of this power to appoint by Elizabeth A. Key may be outright, to a custodian, or to a trustee to be held in further lawful trust.
25. **Distribution Of Unappointed Residuary Trust Estate.** To the extent of undistributed and unappointed income and principal available after having made the foregoing distributions, Trustee shall distribute the residue of the Trust Estate, if any, to Amy K. Key. However, if any distributee(s) shall be disabled or otherwise qualified or eligible to receive Medicaid or other entitlements based in whole or part upon financial need, including Social Security Supplemental Security Income, Trustee may in the discretion of the Trustee distribute such unappointed residue to a qualifying trust for the benefit of such distributee(s).
26. **Facility Of Payments For Incapacitated Or Minor Beneficiaries.** Any distribution to or for the benefit of a person under the age of twenty one years under this Trust may, in

the discretion of Trustee, be paid to a custodian for such person under any applicable provision of the Uniform Transfers to Minors Act, in force in any jurisdiction to which the transfer may apply. Any distribution to or for the benefit of a person above the age of eighteen years under this Trust may, in the discretion of Trustee, be paid to a custodian for such person under any applicable provision of the Uniform Custodial Trust Act, in force in any jurisdiction to which the transfer may apply, and Trustee shall not be held responsible for ensuring proper utilization of the distributed funds. Any person or entity appointed as Trustee under this instrument may serve as custodian with respect to any such distribution.

- 27. Authority And Power To Assign Annuity Payments Continuing After Death of Beneficiary.** Following the death of Elizabeth A. Key, if there are then continuing payments due the Trustee from any source, including but not limited to any annuity, the Trustee is authorized to assign such payments to effect reimbursement under Article III hereof.

ARTICLE IV:

Powers, Compensation, Investment Authority, Accounting And Bond; & Succession.

- 28. Fiduciary Powers.** In addition to the powers granted by law, each Trustee who shall serve under this instrument is granted those powers set forth in Va. Code Ann. § 64.1-57, as amended, and this section of the Code is incorporated in this Agreement by this reference.
- 29. Compensation.** Trustee shall be entitled to reasonable compensation for fiduciary services under this Trust. If at any time a corporate entity serves as trustee under this

instrument, it shall be entitled to the compensation provided for in its published fee schedule in effect when services are rendered.

30. **Qualification Before Clerk Not Required; Annual Accounting And Fiduciary Bond With Surety Not Required.** Trustee shall not be required to qualify before the Clerk of the Circuit Court for Southaven, Mississippi, and shall not be required to settle annual accounts in any court.
31. **Resignation Of Trustee.** Any Trustee and any Successor Trustee may resign as such by giving thirty (30) days written notice to Settlor, if then living, and to Beneficiary.
32. **Successor Trustee.** If Trustee ceases for any reason to serve, then Sharon M. Key shall be successor Trustee. If she is unable or unwilling to serve for any reason, then Amy K. Key shall be successor Trustee. If neither Sharon M. Key nor Amy K. Key is able or willing to serve for any reason, Settlor may appoint a successor Trustee. If Settlor is not then living, the resigning Trustee may appoint any person as a successor Trustee. If no successor Trustee is appointed within forty five days of the resignation or death of the last serving and remaining Trustee, Elizabeth A. Key, acting personally or by and through any court appointed fiduciary for her, may apply to the Circuit Court of the jurisdiction in which she resides, to appoint a successor Trustee. In appointing a successor Trustee, Settlor intends that the Court prefer a family member of Elizabeth A. Key who is knowledgeable of her special needs and wishes, as the successor Trustee. No person who is an employee or agent of the United States government, any state of the United States, or any agency of such state, or who is eligible to receive compensation or fees in any

capacity from any such state or agency of such state, shall be appointed Trustee of this Trust, unless such person is a family member of Elizabeth A. Key.

33. **Actions Of Predecessor.** No Trustee serving under this Agreement shall be responsible for or required to inquire into any fiduciary actions occurring before such Trustee's appointment.
34. **Authorized Fiduciary Investments.** Trustee, in the investment of the Trust Estate, shall act prudently, in accordance with the authority granted herein:
- a) Trustee may invest in any of the investments described in Va. Code Ann. § 26-40.01, as amended from time to time, and any such investment shall fully and absolutely discharge the obligation of prudent action on the part of Trustee.
 - b) In addition to the investments specified in Va. Code Ann. § 26-40.01, Trustee under this instrument is authorized to acquire and retain every kind of property, real, personal or mixed, and every kind of investment which investors of prudence, discretion and intelligence might acquire or retain for their own account under the circumstances. Also, within the limitations of the foregoing standard, should any corporate fiduciary qualify as Trustee, it shall be authorized to retain as received its own stock or securities or the stock or securities of a corporation owning eighty percent or more of its common stock, or any stock or securities received in exchange for any such investments.
 - c) In making investments other than as specified in Va. Code Ann. § 26-40.01, in acquiring, investing, reinvesting, exchanging, retaining, selling and managing property of this Trust for the benefit of Beneficiary, Trustee shall exercise the degree of care, skill, prudence and diligence under the circumstances prevailing from time to time, (including, but not limited to, general economic conditions, anticipated tax consequences, the duties of the fiduciary and the interests of all beneficiaries) that a prudent investor familiar with such matters and acting in his own behalf would exercise under the circumstances in order to accomplish the purposes set forth in this Trust Agreement. In investing pursuant to this standard, Trustee shall consider individual investments in the context of the investment portfolio as a whole and as part of the Trustee's overall investment plan. Trustee shall have a duty to diversify investments unless, under the circumstances, in the absolute discretion of Trustee, it is prudent not to do so. Any determination of liability for investment performance shall consider not only the performance of a particular investment, but also the performance of the portfolio as a whole.

- d) Specifically and without limitation of the foregoing, Trustee may create and fund with Trust assets any corporation, limited liability company, or other business entity which Trustee believes to be in the best interest of the Trust, and engage in such business as an investment of the Trust. It is contemplated that the Trustee may create such a business entity as may be helpful in any plan to achieve self sufficiency for the Beneficiary.

35. Indemnification Of Fiduciaries And Others. The Trust shall indemnify and hold harmless each Trustee and the agents of each Trustee and the Trust, and all of them (herein the "Indemnified Parties"), from and against any loss, expense, damage, or injury suffered or sustained by them, or any of them, by reason of any act, omission, or alleged act or omission arising out of activities on behalf of the Trust or in furtherance of the interests of the Trust, including, but not limited to, any judgment, award, settlement, attorney's fees, and other costs or expenses incurred in connection with the defense of any actual or threatened action, proceeding, or claim provided that the act, omission, or alleged act or omission upon which such actual or threatened action, proceeding, or claim is based was not performed or omitted fraudulently or in bad faith or as a result of wanton and willful misconduct or gross negligence by such Indemnified Party. In no event shall the exercise of the authority vested in the Trustee pursuant to paragraph 33 of this Trust to invest and engage in a business activity with Trust assets be a basis upon which the Trustee may be held liable to any person.

ARTICLE V:

Miscellaneous Provisions.

36. Irrevocable Trust. This Agreement and any Trust under this Agreement shall be irrevocable, except as specified above.

37. **Spendthrift Provisions.** To the extent permitted by law, the principal and income of any Trust under this Agreement shall not be liable for the debts of Elizabeth A. Key or subject to alienation or anticipation by her or any fiduciary appointed for her. This provision restrains both voluntary and involuntary transfer of the interest of Elizabeth A. Key in the Trust.
38. **Public Benefits Provisions.** Elizabeth A. Key shall not be deemed to be the creator or settlor of the Trust for purposes of Medicaid. The Trust created by or with reference to this Agreement is intended to be supplemental to any and all public benefits to which she may now or at any future date be entitled, including without limitation benefits which may be provided under the provisions of the Social Security Supplemental Security Income (SSI) and Medicaid programs in any jurisdiction in which she may now or henceforth reside. The corpus and income of any Trust created by or with reference to this instrument shall be deemed legally unavailable to her. Elizabeth A. Key is disabled as defined in section 1614(a)(3) of the Social Security Act, and is an individual who has a medically determined physical or mental disability that substantially impairs her ability to provide for her own care or custody and constitutes a substantial disability to herself.
39. **Adoption.** Persons related by or through adoption shall be treated as if related by or through birth for all purposes of this Agreement.
40. **Gender Neutrality Terms; Situs; & Multiple Counterparts.** As used in this instrument, the male gender shall include the female and neuter, and the singular shall include the plural, and vice versa. The Agreement is made or delivered in Virginia and

shall be governed by the law of Virginia. This instrument may be signed in more than one counterpart, in which case each shall be deemed an original.

41. Reservation Of Right To Add Further Property To Trust Estate; Right Of Beneficiary to Reacquire Trust Property; Grantor Tax Treatment Of Trust Income.

Settlor reserves the right at any time and from time to time, for Settlor, Beneficiary, and for all other persons, to contribute further property to the Trust. When contributed, such property shall form a part of the Trust Estate. For each taxable year in which it is to the advantage of Beneficiary to do so, viewed from the perspective of reducing or eliminating income and related taxes applicable to the income or gains generated by this Trust, Beneficiary is granted the right and power to acquire the Trust corpus by substituting other property of equal value in exchange for the same, but for each year in which it is not to his advantage, then Beneficiary shall have no such right and power. It is the intention of Settlor that in those years in which it would be advantageous to Beneficiary that income of the Trust shall be taxable to Beneficiary under the federal income tax rules applicable to grantor trusts, it be so taxed, and in those years in which it would be advantageous that the Trustee be permitted to claim the exemption set forth under the provisions of IRC § 151 and the "Victims of Terrorism Tax Relief Act of 2001," enacted January 23, 2002, that income of the Trust shall not be taxable to Beneficiary under the federal income tax rules applicable to grantor trusts.

42. Definition Of "Medicaid." "Medicaid" shall be deemed to include medical assistance as that term is employed in Title 42 of the United States Code, and specifically includes but is not limited to the programs for medical assistance established in all states including

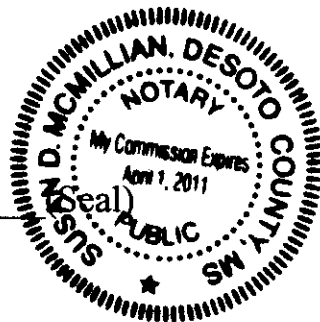
Virginia, commonly referred to as "Medicaid," and the similar program established in California, commonly referred to as "MediCal."

43. **Characterization as SSI "Seed" Trust.** Solely for the purpose of qualifying this Trust for the exclusions and exemptions which are provided for pursuant to 42 D.S.C. 1382b, including but not limited to any regulatory or POMS policy relevant to 42 D.S.C. 1382b, but only to the extent necessary to exclude the principal and income of this Trust from being determined "available" to the Beneficiary, and to exempt any transfer to the Trustee hereof of resources or income of the Beneficiary to the Trustee hereof, this Trust shall be deemed a "seed trust," it being the intention of the Settlor that such characterization shall have no other or further meaning, intent, or effect.

Witness the following signatures and seals:

Settlor:

James H. Key



COMMONWEALTH/STATE OF MISSISSIPPI,

County of DeSoto to wit:

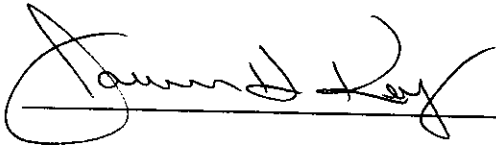
The foregoing instrument was acknowledged before me this 6th day of May, 2009, by James H. Key.

My commission expires: 4-1-2011

Susan D. McMillian
Notary Public

Trustee:

The terms of this Trust Acknowledgment and Agreement are accepted by Trustee, and the Trustee acknowledges receipt of Twenty Dollars (\$20.00), together with any property designated and described on the schedule, if any, annexed hereto and bearing the signature of the undersigned Trustee. All such property is accepted and shall be held by Trustee IN TRUST in accordance with the terms and conditions of this instrument.




COMMONWEALTH/STATE OF MISSISSIPPI,

County of DeSoto to wit:

The foregoing instrument was acknowledged before me this 6th day of May, 2009, by James H. Key.

My commission expires: 4-1-2011.


Notary Public